

## COMMONWEALTH of VIRGINIA

Department of Historic Resources (DHR), 2801 Kensington Avenue, Richmond, Virginia 23221

### **Key Points about the National and State Register Process for Property Owners**

- Listing in the national and state registers is honorary. It recognizes a historic property's importance to its community, the State, and/or the Nation as well as encouraging good stewardship of the historic property.
- National and state register listings do not place restrictions on private property owners. Owners have no obligation to open their properties to the public, to restore them, or even to maintain them, if they choose not to do so.
- Under Federal and State laws, private property owners can do anything they wish with their National Register-listed property, provided that no Federal or State license, permit, or funding is involved.
- If a listed property is destroyed or its integrity is greatly altered, it is removed from the registers.
- To ensure public participation in the nomination process, property owners and local officials are notified of proposed nominations to the National Register and provided the opportunity to comment. Further details provided below. In addition, once a nomination is submitted to the National Park Service another public comment period is published in the *Federal Register*.
- Federal agencies whose projects affect a listed property must give the DHR (Virginia's State Historic Preservation Office) an opportunity to comment on the project and its effects on the property. Further details provided below.
- Federal and State Investment Tax Credits for rehabilitation and other provisions are available, should a property owner choose to use them. Further details provided below.
- Owners may also qualify for Federal grants for historic preservation when funding is available. Refer to the National Park Service web site for Federal grant information. Currently, Virginia has no grants available for privately owned properties.

### **National Register of Historic Places (NRHP)**

Established under the National Historic Preservation Act of 1966 (NHPA), as amended, the national historic preservation program is a partnership between the Federal, State, Tribal, and local governments; private organizations; and the public. The Act and its provisions establish the framework within which citizens plan, identify, evaluate, register, and protect significant historic and archeological properties throughout the country. Central to this framework is the NRHP--the Nation's official list of historic properties worthy of preservation, administered by the National Park Service (NPS), Department of the Interior. Properties listed in the NRHP include districts, sites, buildings, structures, and objects that are significant in American history, architecture, archeology, engineering, and culture.

Historic places are nominated to the NRHP by nominating authorities: the State Historic Preservation Officer (SHPO), appointed by the Governor of the State in which the property is located; the Federal Preservation Officer (FPO) for properties under Federal ownership or control; or by the Tribal Historic Preservation Officer (THPO) if the property is on tribal lands. Anyone can prepare a nomination to the NRHP, at which time the SHPO, FPO or THPO reviews the proposed nomination, and notifies property owners and local officials of the intent to nominate. Nominations submitted through the State must first be approved by a State Review Board (SRB) before being reviewed by the NPS. The members of the SRB, who are appointed by the SHPO, use the same criteria as the National Register to evaluate properties and then recommend them to the NPS for listing in the NRHP.

The NRHP continues to reflect the desire of Americans, as expressed in the NHPA, that "the historical and cultural foundation of the nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people."

### **Virginia Landmarks Register (VLR)**

Also in 1966, the Virginia General Assembly established the Virginia Historic Landmarks Commission, now the Department of Historic Resources (DHR). DHR is the State Historic Preservation Office responsible for managing the VLR, the state's official list of properties important to Virginia's history. The Historic Resources Board (HRB), appointed by the Governor of Virginia, is responsible for listing properties to the VLR. Just as the same evaluation criteria are used for the National and State registers, the same register form is also used for both the VLR and the NRHP. Nearly 2300 historic properties are listed in the VLR. This number does not include the tens of thousands of properties within each listed historic district.

### **List of web sites with further and more detailed information**

[www.cr.nps.gov/](http://www.cr.nps.gov/)  
[www.cr.nps.gov/NR/](http://www.cr.nps.gov/NR/)  
[www.cr.nps.gov/local-law/nhpa1966.htm](http://www.cr.nps.gov/local-law/nhpa1966.htm)  
[www.dhr.virginia.gov](http://www.dhr.virginia.gov)  
[www.cr.nps.gov/hps/](http://www.cr.nps.gov/hps/)

(National Park Service main web page)  
(National Register of Historic Places main web page)  
(National Historic Preservation Act of 1966)  
(Department of Historic Resources main web page)  
(Heritage Preservation Services)

## **Federal and State Tax Provisions**

The Tax Reform Act of 1986 revises the historic preservation tax incentives authorized by Congress in the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, the Economic Recovery Tax Act of 1981, and the Tax Reform Act of 1984, and, as of January 1, 1987, provides for a 20% Investment Tax Credit (ITC) with a full adjustment to basis for rehabilitating historic commercial, industrial and rental residential buildings. The former 15% and 20% ITCs for rehabilitations of older commercial buildings are combined into a single 10% ITC for commercial or industrial buildings built before 1936. The Tax Treatment Extension Act of 1980 provides Federal tax deductions for charitable contributions for conservation purposes of partial interests in historically important land areas or structures. Whether these provisions are advantageous to a property owner is dependent upon the particular circumstances of the property and the owner.

Owners of properties listed in the VLR may be eligible for a 25% ITC for the certified rehabilitation of income-producing and non-income producing certified historic structures such as commercial, industrial, or rental or non-rental residential buildings. Owners who rehabilitate an income-producing building listed in both the National and State registers may use both Federal and State ITCs.

Tax Credits are only available if a property owner chooses to use them and individuals should consult the appropriate local IRS office for assistance in determining the tax consequences of the above provisions. Refer also to 36 CFR 67 at the Heritage Preservation Services web site or to the Tax Credit Program on the DHR web site.

## **Results of Federal and State Listing**

Historic District sponsoring organizations or local governments and owners of individually listed properties may purchase an attractive official plaque noting designation. Owners of recognized historic properties are also eligible for the Virginia Preservation Easement Program, as well as technical assistance from the staff of DHR. Professional architects, architectural historians, and archaeologists are available to provide technical guidance in the care and maintenance of buildings and sites.

Listing in the NRHP requires consideration in planning for Federal, federally licensed, and federally assisted projects. Section 106 of the NHPA, requires that Federal agencies allow the SHPO an opportunity to comment on all projects affecting historic properties either listed in or determined eligible for listing in the NRHP. The Advisory Council on Historic Preservation oversees and ensures the consideration of historic properties in the Federal planning process. (Refer to 36 CFR 800 at the Heritage Preservation Services web site.) Buildings listed on the VLR may also be considered as part of a state-funded project, such as highway planning.

Listing also requires consideration in issuing a surface coal mining permit. In accordance with the Surface Mining and Control Act of 1977, there must be consideration of historic values in the decision to issue a surface coal mining permit where coal is located. (Refer to 30 CFR 700 at the Heritage Preservation Services web site.)

Localities may have laws to encourage the preservation of their historic places. Some local governments have enacted their own identification procedures; some use listing in the National and State registers as an indicator of historic significance. State and local historic preservation programs often provide some protection against the possible harmful effects of State-funded, -licensed, or -assisted projects. Some provide limited financial assistance to owners in the form of grants, loans, or tax benefits. They may establish other protections or reviews for preservation purposes. The SHPO or local planning departments can provide more information.

## **Rights of Owners to Comment and/or Object to Listing**

In accordance with the National Historic Preservation Act of 1966, as amended, owners of private properties nominated to the National Register have an opportunity to concur with or object to listing. The same rule applies to the Virginia Landmarks Register listing as supported by the Code of Virginia.

Any owner or partial owner of private property who chooses to object to listing may submit to the State Historic Preservation Officer (SHPO) a notarized statement certifying that the party is the sole or partial owner of the private property and objects to the listing. Each owner or partial owner of private property may comment regardless of the portion of the property that party owns. Each owner of private property in a district is counted as one individual regardless of how many properties that party owns, and regardless of whether the properties contribute to the significance of the district. If private property owners object to their property being included in the proposed historic district, the objection must be submitted as a notarized statement. If a majority of private property owners formally object, the proposed historic district will not be listed. However, the SHPO shall submit the nomination to the NPS Keeper for a determination of eligibility of the property for listing in the NRHP. If the property is then determined eligible for listing, although not formally listed, Federal agencies will be required to allow for the Advisory Council on Historic Preservation to have an opportunity to comment before the agency may fund, license, or assist a project which will affect the property.

Any comments or objections should be sent to the State Historic Preservation Officer at the Department of Historic Resources, 2801 Kensington Avenue, Richmond, Virginia 23221 prior to the scheduled Board meeting listed in the notification letter. Notices of objection must be notarized prior to submission to the SHPO.

Letters of support or objection will be copied to the HRB and SRB members for review along with the nomination to which they refer. These letters will also be forwarded to the NPS upon their review of the nomination.